

CITY OF HELENA
REGULAR CITY COMMISSION MEETING
February 27, 2017
6:00 P.M.

Time & Place

A regular City Commission meeting was held on Monday, February 27, 2017 at 6:00 p.m., in the Commission Chambers, 316 N. Park Avenue, Helena, Montana.

Members Present

Mayor Pro Tem Ellison indicated for the record that Commissioners Haladay, Noonan and Farris-Olsen were present. Mayor Smith was excused. City Manager Ron Alles, City Attorney Thomas Jodoin and City Clerk Debbie Havens were present.

Others present were Gary Spaeth representing the Helena Citizens Council.

Pledge of Allegiance

Mayor Pro Tem Ellison asked those persons present to please stand and join him in the pledge of allegiance.

Minutes

The minutes of the regular City Commission meetings of February 13, 2017 and were approved as submitted.

Consent Agenda

CONSENT AGENDA:

- A. Claims
- B. Resolution of intention to establish fees to be charged for the Last Chance Splash Waterpark and Pool. **Resolution 20328**
- C. Resolution of intention to adjust the fees to be charged for park use and recreation services and programs by amending Resolution No.19995. **Resolution 20329**

City Manager Alles recommended approval of the claims.

Public comment

Mayor Pro Tem Ellison asked for public comment, none was received.

Motion

Commissioner Haladay moved approval of items A through C on the consent agenda. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Communications

COMMUNICATIONS/PROPOSALS FROM COMMISSIONERS

Commissioner Haladay reported HB339 which deals with exempt wells has passed the house and is on its way to the senate committee. He asked for commission concurrence to ask City Manager Alles to attend the hearing to oppose the bill. He also suggested reaching out to other Montana communities and ask them to go on record in opposition of the bill. This is a bad piece of legislation.

There was commission concurrence to ask City Manager Alles to follow HB339 and report back to the commission.

Commissioner Noonan acknowledged and congratulated the Helena Public Art Committee for commissioning a mural on the Jackson Street garage.

Mayor Pro Tem Ellison outlined how he will conduct the public hearing on the demolition permit for Central School. He will set aside two hours for public comment. He suggested to those wishing to speak to keep their remarks on point. He noted the commission has received a complete record of all public comments received to date; the full transcript and minutes of the Heritage Preservation Commission's public hearing. The public hearing will be focused on the demolition permit and no other issues related to the Helena School District.

Mr. Nicholson asked to rise to a point of order. Mayor Pro Tem Ellison asked Mr. Nicholson to have a seat.

Report of the City Attorney

REPORT OF THE CITY ATTORNEY

Attorney Jodoin updated the commission on the Westside Annexation lawsuit. Judge McMahon has recused himself and Judge Menehan has taken the case.

Report of the City Manager

REPORT OF THE CITY MANAGER

No report was given.

Report from the Helena Citizens Council

REPORT FROM THE HELENA CITIZENS COUNCIL

HCC Chair Spaeth had no items to report on; the HCC made no recommendation regarding the Central School demolition permit.

Regular Items

REGULAR ITEMS:

- A. CONSIDER THE FINAL PLAT FOR A MINOR SUBDIVISION CREATING TWO LOTS FROM LOT 4-A-1, BLOCK 4, OF THE BROADWATER SECOND ADDITION, GENERALLY LOCATED AT 1717 LESLIE AVENUE, HELENA, MT.

Staff Report

City Planner Ellie Ray reported on January 23, 2017, the Helena City Commission approved the preliminary plat for the two lot minor subdivision of Lot 4-A1 of the Broadwater Second Addition from a 0.28 acre parcel. The purpose of this minor subdivision is to bifurcate Lot 4-A-1, which was aggregated by a previous landowner in 2007. This will allow the current landowner to sell each of the single-family homes that he has built on the property. No conditions required completion with this minor subdivision, and all infrastructure installations have been installed and accepted by Public Works. The plat, as submitted, meets with all other applicable requirements.

Planner Ray recommended approval of the final plat as residential development within City limits may produce lower resource(s) and infrastructural impacts. Approval of the minor subdivision would promote residential infill development within the City of Helena.

Public comment

Mayor Pro Tem Ellison asked for public comment, none was received.

Motion

Commissioner Farris-Olsen moved approval of the final plat for a minor subdivision, creating two lots from Lot 4-A-1, Block 4, of the Broadwater Second Addition. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Public Hearings

PUBLIC HEARINGS:

- A. CONSIDER SUBMISSION OF THE CAPITAL TRANSIT FISCAL YEAR 2018 MONTANA DEPARTMENT OF TRANSPORTATION (MDT) 5311 GRANT REQUEST PACKAGE.
- B. CONSIDER SUBMISSION OF THE CAPITAL TRANSIT FY 2018 MDT 5311 GRANT REQUEST FOR CAPITAL EQUIPMENT.
- C. CONSIDER ACCEPTANCE OF THE CAPITAL TRANSIT COORDINATION PLAN WITH CAPITAL EQUIPMENT RANKING FOR FY 2018.
- D. CONSIDER SUBMISSION OF CAPITAL TRANSIT'S FY 2018 REQUEST FOR MDT 5311 TRANSADE FUNDING.

Staff Report

Capital Transit Supervisor Steve Larson reported each year the lead agency must submit the grant funding request to the Montana Department of Transportation to assist in funding our public transportation program. The grant request includes the 5311 operating budget, capital equipment request, TransAde funding request and the updated Coordination Plan.

Staff proposes approval of the following:

- Authorize the City Manager to sign the 5311 grant request which includes the 5311 operating budget, capital equipment request, TransAde funding request and the updated Coordination Plan for the City of Helena and allow the City Manager to submit the FY2018 5311 grant package.
- Authorize Capital Transit to include in its 5311 Operating grant the replacement of two buses. One for the expanded fixed route operation and one for the ADA Para Transit service. Over its life each bus will serve both as a primary service bus and a backup bus. It is common that when it is time to replace the bus it will begin to experience extensive and expensive repairs and will have over 200,000 miles on the bus. This year the City is requesting several capital items; a 27 passenger/ 3 wheelchair fixed route bus. 2), one 12 passenger/ six wheelchair ADA Para Transit bus. 3), Route Match software to complete the fixed route software operation. 4), two additional public shelters for the fixed route bus service. Fleet replacement is vital to maintaining an effective operation.
- Accept the Capital Transit FY 2018 Coordination Plan with CTAC's capital equipment ranking and allow staff to include the document in its grant application package. This year the CTAC has ranked Capital Transit's vehicle requests as the highest and second highest needs in Helena. The Coordination Plan helps indicate how transportation coordination is progressing in our community. It also provides a way for the lead agency to describe what items in the updated 2013-2018 Transit Development Plan have been completed.
- The 2015 legislature changed the TransAde distribution program identified in MCA 7-14-112. This change allows the funding to be open to other agencies involved in the local Transit Advisory Committee (TAC) if the lead agency does not have a qualifying need for the funds. The amount of funding available to our area this year is \$51,180.00. This year, the City of Helena, Capital Transit, will be requesting to use the TransAde funding to provide transportation to seniors, elderly and individuals with disabilities through its ADA Para Transit program and the fixed route bus service. The city is in the process of improving its fixed route bus service with new routes and bus stops that complies with the Americans with Disabilities Act (ADA). Secondly, the city is purchasing low floor transit buses eliminating the need for the wheel chair lifts making transit easier for everyone. Lastly, the City provides extensive ADA Para-Transit across the entire city, not the required $\frac{3}{4}$ of a

mile federal requirement. Transportation for seniors, elderly and individuals with disabilities through Capital Transit ADA Para Transit program is the primary transportation for many in our community. Without this funding many individuals would be left relying on friends, neighbors or relatives for transportation.

Supervisor Larson recommended approval of the proposals as described above.

Commissioner Haladay asked if it is staff's recommendation to deviate from the recommendation from CTAC. Supervisor Larson recommended acceptance of the TransAde grant; which would not change the request. Commissioner Haladay clarified moving to accept the TransAde grant would reverse CTAC's recommendation. Supervisor Larson concurred.

Commissioner Noonan asked what the basic scope of the para-transit service is. Supervisor Larson stated since the city has fixed routes, the federal government requires a para-transit service. The city is required to provide that service within ¼ miles of the fixed route; however, the city provides citywide para-transit service.

Public testimony

Mayor Pro Tem Ellison opened the public hearing and called for any persons wishing to provide testimony.

The following persons appeared before the commission:

CTAC Chair Teresa Ortega; reported CTAC supports the submission of the Capital Transit FY 2018 MDT 5311 grant request; the submission of the Capital Transit FY 2018 MDT 5311 grant request for capital equipment and the acceptance of the Capital Transit Coordination Plan . However, CTAC continues to recommend the TransAde funds ranking with MILP as number one and the city as number two.

Joel Peden, MILP, spoke in support of CTAC's ranking; he handed out copies of MCA 7-14-112 and an email from Thomas Stuber. TransAde funds are to be used for services that meet the needs outside the normal hours of Capital T.

There being no further persons wishing to address the commission, Mayor Pro Tem Ellison closed public hearings A-D.

Discussion

Commissioner Haladay asked is there a specific allocation that the TransAde funds will be used for. Supervisor Larson noted Capital Transit has been an on-gong upgrade and that is what those funds would be used for. Included in the upgrade are the ADA bus stops and a new bus that is more accessible for all.

Commissioner Haladay noted the program being run by MILP seems necessary and the commission would support it, if there was funding. In the past the commission has discussed going out and finding community partners. He asked if those discussions have been ongoing. Supervisor Larson stated he is not aware of any ongoing discussions to help fund the after-hours operations. Supervisor Larson agreed the service MILP offers is a great service; however, the funding is always the issue. There a lot of needs in the community.

Commissioner Haladay asked staff to make an effort over the next year, working with CTAC and MILP, to reach out for community partners to help fund the after hour services.

Commissioner Haladay asked if the county representative voted to rank MILP's application higher than the city's. Manager Alles noted the county commission had not taken any action on the recommendation; however, the county staff person voted as an

individual. Commissioner Haladay stated the county has contributed \$37,500; he asked if this is a firm amount for FY 2018. Manager Alles stated the \$37,500 is included in the county's preliminary budget. Commissioner Haladay suggested the funding of Capital T and MILP's after hour service is discussed with the county during the joint budget work session.

Commissioner Haladay thanked Supervisor Larson for all the work he has done to bring Capital T to the service level we currently operate at. The system is for all individuals and staff has done a great job. He also recognized and thanked the members of CTAC for their service to providing transportation in Helena.

Commissioner Noonan reiterated it is an important goal to find some way to expand services to evenings and weekends. Commissioner Noonan noted in the past the city's transportation system did not work well; however, in the past two years, it has become a great community service.

Motion Commissioner Noonan moved to accept staff's recommendation to submit the preliminary FY 2018 5311 Operating Grant Request and allow the City Manager to submit the grant request electronically. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

Motion Commissioner Haladay moved to accept staff's recommendation to submit Capital Transit's 5311 Capital Equipment Request as part of Capital Transit's preliminary 5311 Operating Grant Request. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Motion Commissioner Haladay moved to accept staff's recommendation to submit the FY 2018 Coordination Plan with capital equipment ranking as part of Capital Transit's preliminary 5311 Operating Grant Request. Commissioner Noonan seconded the motion. All voted aye, motion carried.

Motion Commissioner Noonan moved to accept staff's recommendation to submit the FY 2018 TransAde funding request as part of Capital Transit's preliminary 5311 Operating Grant Request. Commissioner Farris-Olsen seconded the motion. All voted aye, motion carried.

E. CONSIDER GRANTING PERMISSION FOR THE DEMOLITION OF THE CENTRAL SCHOOL BUILDING AT 402 WARREN STREET.

Staff Report

Community Development Director Sharon Haugen reported on January 10, 2017, the city of Helena received a complete application for a demolition permit from Helena Public Schools ("HSD") to demolish the Central School building located at 402 North Warren Street. As stated in the School District's application "the HSD is proposing to replace the existing school with a new K-5 elementary school it is the intent of the HSD to incorporate the architectural character and elements of the current facility." Central School is contributing property in the Helena Historic District and any demolition of any building that is contributing is a "historic" structure as defined by 3-15-2, HCC. Such "historic" structures may not be demolished without first having obtaining a permit approval from the city commission. A pre-application meeting was held by the

Historic Preservation Officer on December 27, 2017.

HCC 3-15-6 contains the information that is required for an application for a demolition permit. The applicant is required to include: a) legal description, property address and age of the structure; b) a written description and photographs that illustrate the structure; c) a brief description of the proposal and the reason demolition is requested; d) brief description of the surrounding neighborhood and how the applicant proposes to protect the integrity of the historic district if demolition is proposed; and e) cost estimates to restore or repair the structure and the name of the person or firm preparing the estimate. After reviewing the HSD's application city staff determined that it contained all of the required information and that the application was complete. Under the provisions of the ordinance, the historic preservation commission which has subsequently renamed the Heritage Preservation and Tourism Development Council ("HPTDC") is required to hold a public hearing.

That public hearing was held on February 7, 2017. At the public hearing the HPTDC shall review and evaluate the information provided for the application requirements, the architectural and/or historical significance of the structure, its relationship to the district and/or its relationship to a larger project, consider public testimony on the proposed demolition and any other relevant information. The HPTDC shall make a recommendation to the city commission for the approval or denial of the demolition application. Following extensive public comment the HPTDC voted 5-0 to "reject the application" because the HPTDC felt the HSD application was incomplete. The HPTDC did not make a recommendation on the merits of the application. HCC 3-15-7 (c) states that the commission shall approve or deny the demolition application within (60) after a complete application has been submitted. The Helena City Commission has until March 10 to take action on the permit request. According to the City Attorney, if they do not act within that time period, the demolition permit is approved.

Director Haugen noted the city commission has established a website to receive public input on the consideration of this demolition permit. The link to the website is:

<http://www.helenamt.gov/commission/central-school-demolition-permit.html>.

The website was established January 26 and is available to make comments concerning this matter on line. As of February 19th, 183 comments have been submitted through the website. Also available on the website are all copies of all emails and letters that have been submitted to the Helena City Commission to date. All the comments, submitted on line and to the city commission are available for public viewing. Additional comments may be received by the city commission up to and including the day of the public hearing.

If the demolition permit is approved, the HSD has stated in their application, "the HSD is proposing to replace the existing school with a new elementary K-5 school. It is the intent of HSD to incorporate the architectural character and elements of the current facility including the granite rock walls and arched walkways into the new facility design wherever practical." If the demolition permit is denied, a historic structure will not be demolished. In that event, the future disposition of the property has not been determined at this time.

Discussion

Commissioner Haladay asked if the 7th Avenue gym is not included in the demolition permit. Director Haugen concurred.

Commissioner Haladay stated there have been a number of allegations that the city has deviated from the standard process in the

case of the demolition permit. There has been a super focus on due process and ex-parte communications concerns. Commissioner Haladay referred to the report of Historic Preservation Officer's (HPO) report where it stated in previous demolition permits, the HPO has determined the completeness of the application; he asked why not in this case. Attorney Jodoin and Director Haugen explained the HPO used to be a city of Helena employee and in recent years the position was transferred to the county. It may not be historically accurate to say that one person, in recent history, has deemed the application complete. Attorney Jodoin noted as he has become more aware of these processes, he has provided input and determined it would be most appropriate that city staff determine if the application is complete. It is the city that is ultimately responsible for the process.

Commissioner Haladay referenced HCC 3-15-5 and noted the applicant shall meet with the HTC and/or staff to present the proposal for demolition. It is his understanding in this case the HTC was not part of the pre-application meeting due to ex-parte communication concerns. It has been past practice for many years that the HTC attends the pre-application meetings. Why did ex-parte communications change things in this case and if it was publically noticed meeting, doesn't that eliminate the ex-parte concerns. Attorney Jodoin stated it is not accurate to say the HTC has always attended the pre-application meetings; the two previous cases they were not involved; it was the HPO who attended.

Attorney Jodoin stated he advised HTC members, that as a board, they should not attend the pre-application meeting. The process is set to have the HTC make a recommendation to the city commission on what they hear at their public hearing and submitted documents. The pre-application meeting was not a noticed public meeting.

Commissioner Haladay asked if the HTC has been present at publically noticed pre-application meetings in the past. Attorney Jodoin stated he cannot say when they may have attended a pre-application meeting; however the past two demolition permit requests, they have not. Commissioner Haladay stated the HTC was present for first pre-application meeting for the demolition permit for Central School. Director Haugen stated the HPC was present for the first pre-application meeting on Central School. She concurred that the HPC does not always attend the pre-application meetings.

Commissioner Haladay asked if the ex-parte concerns that kept the HTC out of the room, shouldn't the ordinance be amended to not allow the HTC to attend the pre-application meetings. Attorney Jodoin stated that would be his recommendation.

Commissioner Haladay noted the HPO report also states with previous applications the applicants have provided plans for the structure that is proposed for after the historic structure is demolished. He understands that it is city staff's position that no plans are necessary. Commissioner Haladay referenced 3-15-6D requires how the applicant proposes to protect the integrity of the district if demolition is proposed. How is the city commission supposed to assess that if there isn't any kind of site plan for a new structure provided. Attorney Jodoin commented he does not believe the ordinance is not well crafted; implementing it has been difficult at best. That being said, the application is for the demolition of the structure and not for the review of new structures. Any applicant can build a structure on their property as long as they meet the zoning and building codes. The commission does not review building permits nor have the expertise to do so. Attorney Jodoin stated he does not have the information on whether site plans have always been submitted with a demolition permit. He cannot see

where it states a site plan will be provided. If a site plan was submitted, what standards would the commission and/or HPO use to review the plan. There are not design standards that would dictate on what a future building would look like. Attorney Jodoin then showed a copy of the general demolition permit that is required for the demolition of any building. The demolition permit process for a historic building is separate and apart from the general demolition permit.

Commissioner Haladay asked Attorney Jodoin if it is his interpretation the application can be complete without submitting a general site plan for a new structure. However, simultaneously it is to provide how the historic district will be preserved. Attorney Jodoin concurred and noted it is his understanding that there is more than one way to protect the historic district; that is up to the applicant to describe how they plan to do so. Commissioner Haladay asked Attorney Jodoin, in his legal opinion, is it appropriate for this commission to deny the permit application based on the same rationale given by the HTC. Attorney Jodoin stated he does not believe denial of the permit based on the rationale given by the HTC would be legally supportable. Commissioner Haladay asked Attorney Jodoin to further explain. Attorney Jodoin stated he does not believe the city can ask any applicant, including the school district, to provide a site plan; even if we did require a site plan, what standards would be used to review it. On that basis alone, he does not believe the commission could deny it. There is a difference between completeness and sufficient and he believes that is where the discussion should have gone with the HTC. Commissioner Haladay asked if Attorney Jodoin would have been comfortable if the HTC had deemed the application complete but inadequate on how the applicant is going to protect the historic district. Attorney Jodoin concurred, within the context that it lacked information on the protection of the historic district and not because of any site plan.

Commissioner Haladay referred to a memo from former City Attorney Hindoien regarding the standard of review that applies to this commission's decision and basically stated it was an abuse of discretion standards that should likely hold unless it was so lacking in fact and foundation that it is clearly erroneous. He asked Attorney Jodoin if he agrees with that standard. Attorney Jodoin stated yes.

Commissioner Haladay stated in 2014 the city attorney also stated the commission could attach conditions to the demolition permit as long as they were tied directly to the factual circumstances of the specific permit request, as developed both through the application and the public hearing process. He asked Attorney Jodoin if he also agrees. Attorney Jodoin stated yes, as long as the conditions are related to 3-15-16D on how the conditions are going to protect the integrity of the historic district. Commissioner Haladay stated in the same memo, Attorney Hindoien spoke about reasonable conditions that were applicable to the framework that was set forth in the application; he asked how the commission would attach conditions if there are no specifics to grab onto, i.e. design plan. Attorney Jodoin stated if the information on the application is insufficient for the commission to weigh it; it would be up to the commission to make that decision. Attorney Jodoin stated he would want to discuss the specific condition before weighing in on whether you can do it or not. Commissioner Haladay stated if the school district is agreeable to making certain representations on the record or agrees to certain conditions would those be permissible to attach. Attorney Jodoin stated he believes so.

Commissioner Haladay noted 3-15-7B states the HPC shall review and evaluate the information provided for the application

requirements, the architectural and/or historical significance of the structure, and its relationship to the district and/or its relationship to a larger project, consider public testimony on the proposed demolition and any other relevant information. Commissioner Haladay stated he sees this as three separate considerations here and given the clause of “any other relevant information”, he would read that to include considerations beyond the four corners of the application and asked Attorney Jodoin if he agrees. Attorney Jodoin agreed, again in the context of the intent and purpose. Attorney Jodoin again expressed concern with the city engaging in a comprehensive design discussion when the demolition of a structure is being considered.

Mayor Pro Tem Ellison stated it was difficult not to have outside conversations regarding the demolition permit. However, he asked each commission member to report on any ex-parte communications they may have had.

Commissioner Farris-Olsen emailed School Board Trustee Sarah Sullivan prior to discussion on ex-parte.

Mayor Pro Tem Ellison reported a number of people wanted to discuss the demolition permit; however, he has avoided having any discussions. He recognized 99% of information he has received came from the packets of information and public comments.

Commissioner Noonan stated he too had people talk to him about ideas and he received individual emails. His response to those emails was to say with his interest in Helena history and his knowledge of education needs he would consider their comments and thank the sender.

Commissioner Haladay noted people wanted to discuss the issue. It has been impossible not to receive public comment on the application.

Commissioner Farris-Olsen stated the wrong legal description is on the demolition permit application and asked if that would make a difference. Attorney Jodoin stated he does not believe so, the correct physical address on the application and there is no doubt the demolition permit is for Central School.

Commissioner Noonan commented the state of Montana has jurisdiction on their buildings and asked if the School District would have the same jurisdiction; was it necessary for them to ask the city commission for the demolition permit. Attorney Jodoin stated he does have reservations if the city has review authority over the school district. His position requires him to protect the rights for the city commission and preserve the integrity of the process. He is not sure how far the city's review goes regarding state agencies, which includes local school districts.

Public testimony

Mayor Pro Tem Ellison opened the public hearing and called for any persons wishing to provide testimony.

Helena School District Board Trustee Aiden Myhre spoke in support of the demolition permit. She recognized and thanked the Helena School District Board of Trustees and Superintendent Jack Copps for the work and decision bringing this application forward.

Trustee Myhre read a prepared statement in support of the demolition permit.

Morrison and Maeirle Engineers Alan Stanbary and Aubry Yerger gave structural information on Central School; including structural seismic concepts, existing central school, retrofit of central school, building a new central school.

Marty Shuma with Dick Anderson Construction presented a cost

estimate spreadsheet for renovation versus new construction.

Commissioner Farris-Olsen noted the current floor plan for a new school is 35,000 versus 38,000 if renovated.

Jack Copps, Superintendent of Helena School District, spoke in support of the demolition permit.

The following persons spoke in support of the demolition permit request: **Tom McGree**, Chair of committee to get bond passed; **Shalon Hastings**, downtown property owner; **Jennifer McKee**, parent; **Sanjay Talwani**, Helena School District Board Trustee; **James B. Brown**, retired architect; **Stewart Segrest**; **Kal Poole**, parent; **Pamela Munion**, educator at Rossiter School; **Paul Phillips**, Helena Education Representative and educator; **Brian Obert**, MBAC Executive Director; **Colleen Brady**, President of Big Brothers/Big Sisters and retired educator; **Don Harriott**; **Patrick Riely**, Educator and member of the Heritage Preservation Tourism Council; **Amy Casne**, **Abby Nieoff**, **Tony Napolitano**, Montessori Educators; **Erika McMillon**, employee of Helena School District; **Annie Lawler**, Senior at Helena High School; **Dale Waniata**, retired educator and current substitute; **Susan Robertson**, educator at Central School; **Darby Bramble**, parent of former Central School students; **Don Jones**; **Kyle Strode**, parent; **Joyce Franzen**; **Diana Hammer** parent; **Lynn Bubb**, educator and parent; **Kim Patterson**; **Gary Hendrix**; **Julie Gustafson** property owner in the district; **Hugh Zackheim**; **Peter Sullivan**; **Dan Sullivan**, downtown business owner; **Morgan Smith**; **John McEwan**; **Lori Smith**, educator; **David Ashley**; **Rick Hays**; **Erin Turner**; **Sarah Sullivan**, Helena School District Trustee; **Lisa Cordingly**; **Mary Johnson**; **Kate Hays**; **John Ilgenfritz**; **Ann Goldes**; **Robert Warner**; **Bob Funk**; **Ellen Feaver**; **Rick Pyfer**; **Jack Berry**; **Amanda**; **Susan Blossom**; **Dave Powell**; **Tracy Moseman**; **Barbara Harris**; **Heidi Heibach**; **Alice Hess**; **Jerry Kine**; **Amy Pearson**; **Libby Goldes**; **Marilyn Hendrix**; **Denise Barber**; **Helen Christensen**; **John Stilson**; **Cherche Prezeau**; **Terry Beaver** and **Dwayne Wright**.

Those in support comments addressed the need for a 21st century school on the Central School site; quality education must be the priority; bring the students back to Central School; the bond issue addresses more than Central School; having a school at the current site provides economic viability to downtown; the dynamics and population of Central-Linc is not the same as Central School; history is an important part of Helena; however, it should not prevent moving forward with a new school; Central-Linc does not have safe pedestrian access; School Board has done their due diligence and made the correct recommendation;

Mayor Pro Tem Ellison called for a 15-minute recess at 8:45 p.m. and noted the commission members will not engage in any discussion. Mayor Pro Tem Ellison reconvened the public hearing at 9:00 p.m.

The following persons spoke in opposition to the demolition permit request: **Richard Alberts**, Heritage Preservation and Tourism Commission member; **Alan Nicholson**, property owner of historic buildings; **Peter Brown**, parent and preservationist; **Chere Juisto**, Montana Preservation Alliance; **Laura Ferguson**; **Nancy Nicholson**; **Max Smith**, attorney for property owners; **Katherine Haque-Hausrath**, parent and former City Commissioner; **Scott Peterson**, attorney not representing anyone; **Sumner Sharpe** speaking on his own behalf and not representing the HCC; **Rick Ahmann**, realtor and parent; **Dustin Kalanick**, parent; **Annie Hunschin**; **Bobbi Uecker**, business owner in the Historic District; **Mary Ahmann-Hibbard**, parent; **David Olsen**; **Kate Hampton**; **Charlene Nava**, school

counselor; **Mike Gilleran; Janet Lieberg; Debbie Boyle; Connie Ford; Matt Fredmeyer and Doug Petersen**

Those in opposition comments addressed the process being flawed; the demolition permit application was incomplete as the school district did not provide what the impact would be on the Historic District and did not provide a site plan for the new school, the importance of keeping history in Helena, restoration of Central can be successful, both sides are in favor of quality education and renovation of Central School would meet the needs of the students, transparency in the process is a must, the ordinance requiring the demolition permit is designed to protect historic structures, an historic district is a contributing asset to Helena, concerns with the environmental impact with the demolition of the building and the lack of transparency of the school board.

Seeing no further public testimony, Mayor Pro Tem Ellison closed the public hearing. He then called for a break at 10:30 p.m. and reconvened the meeting at 10:40 p.m.

Mayor Pro Tem Ellison thanked everyone who testified during the public hearing and the civility that has been shown tonight.

Motion

Commissioner Noonan moved approval of a demolition permit for the Central School building located at 402 Warren Street.

Commissioner Haladay seconded the motion.

Discussion

Commissioner Noonan spoke of living one block away from Central School and his desire to have it returned as an education institute to serve the students. There are two sides of the issue and both sides offered legitimate testimony. People have been presenting and operating in good faith. The commission has to approve the demolition permit and honor the school board on their decision. Commissioner Noonan stated he has experience as a manager of three historic buildings in Helena and cares about those buildings. However, Central School has a lot of real problems that may not be able to be mitigated. He then stated ADA accessibility is also a real issue and those regulations must be met. He has also been involved in several unexpected and tragic community events and had to respond. He believes the seismic reality is there. Commissioner Noonan stated as an educator in the last six years he has been called to challenge and change himself as a person to respond to what now has to happen in the classroom. After weighing all these things, he will support the demolition permit.

Commissioner Farris-Olsen asked Engineer Alan Stanbury if Central School was renovated, would the school be safe. Mr. Stanbury stated the renovated school would meet IBC codes; however, there are unknowns in Central School and a new building would have a better safety factor. Commissioner Farris-Olsen asked would the renovated school collapse. Engineer Stanbury stated it would not collapse; however, there could be major damage which could make it unrepairable and you may end up with a building you would eventually have to tear down. Commissioner Farris-Olsen stated his concerns is the safety of the building; if you renovate the current building or build a new building, both would be safe for students to occupy. Engineer Stanbury stated you could make Central School safe with all the knowledge that is available today. However, comparing a renovated building to a new building, his confidence is much greater with a new building being safe. Commissioner Farris-Olsen asked in the calculations for the new

building, were any of the historic elements included. Mr. Stanbury stated no, the numbers are for a new building. Engineer Aubrey Yerger stated the weight of the entry would not greatly affect the weight of a new building. Commissioner Farris-Olsen asked if the calculations change or the safety concerns change with a one or two story building. Ms. Yerger stated no.

Commissioner Haladay asked Superintendent Copps what happens if the city commission votes no on the demolition permit. Superintendent Copps said if the commission says no, there is the possibility the school board would proceed with the bond issue; if they do that, they could ask the voters to consider the current bond language which is to build three new buildings, including Central School and then begin with building either Jim Darcy or Bryant School. The school board could after six months submit another demolition permit application. If a demolition permit was never issued, the school board could decide not to do anything at that location. The bond language does not address the renovation or demolition of Central School.

Commissioner Haladay noted during the public testimony, there were accusations on the process and the school district's permit application. When he first read the application, he was a bit troubled by the school district's definition of a neighborhood. He then asked if the school district believes the description on the application constitutes the Central School neighborhood. Superintendent Copps stated when he sees Central School he sees an historic central neighborhood; the school district has a clear obligation and responsibility to preserve the historic remnants of Central School and use some of them in the design of the new school and/or the landscape. If the bond issue passes and demolition permit is approved, conversations will begin on what the design will look like for Central School. There will be three architects on board to develop one design. Included in the discussion will be residents, educators, parents and historians. The school district needs to be vigilant that the residents are included and the building fits into the neighborhood.

Commissioner Haladay stated he received a lot of emails asking him to vote for a modern flagship school and noted he is not sure what that would look like. Superintendent Copps stated there have been many descriptions of what Central School will look like; however, the design of Central School will keep the historic nature of the neighborhood. Because society has changed and there has been an increase in the number of students who have special needs. He gave several examples on how educators use a variety of delivery systems for the students. The needs of the classroom are much different today than in the past.

Commissioner Haladay asked why the school district made the choice not to provide a rendering of a new school on the Central School site. Superintendent Copps stated there have been instances in the past where a design is presented before the bond issue and then there is the expectation that it is the permanent design. The school district needs to have flexibility in the design. A rendition of a new school would be great; however, the cost is expensive to provide that. Superintendent Copps again reiterated the importance of neighborhood input.

Commissioner Haladay asked if the school district is wed to a single story school. Superintendent Copps stated absolutely not; there needs to have space on site for a playground, bus service and parking. More likely than not, it will be a two story building.

Commissioner Haladay stated he is still somewhat skeptical the historic nature of Central School will be maintained with the construction

of a one-story school and is happy to hear a two-story building is likely to be built. Commissioner Haladay then read a quote from a public comment that "Superintendent Copps has promised with the successful passage of the bond, his first step will be to establish a community committee to ensure the new Central design will complement the neighborhood." Superintendent Copps stated that it is his intent; it would be an "advisory committee" and would include members who have skin in the game, who are interested in assuring the new building fits into the neighborhood. The building should not be intrusive.

Commissioner Haladay spoke of the last time the school district presented the bond and the discussions of distrust of the school district and board. Superintendent Copps stated he has heard trust issues with the school board. Commissioner Haladay stated given Superintendent Copps willingness, does he see any problem upon approving the demolition permit with the condition the community committee be established by the school board. Superintendent Copps stated he has no problem with establishing the condition of an advisory committee; to assure there is input from people in the community. Commissioner Haladay stated he appreciates Superintendent Copps comments and he believes it goes some distance with the city commission's needs to assure that certain conditions are attached to the demolition permit; even as an advisory committee.

Superintendent Copps asked that any conditions put on the approval of the demolition permit will not cause unnecessary delays. The board would have to take action and agree to those conditions.

Commissioner Haladay asked Superintendent Copps if he has concerns with the Historic Preservation Officer being a part of the committee. Superintendent Copps commented the committee cannot continue to discuss the past; however, he believes people with preservation interest should be on the committee. Historic remnants need to be included in the design of the new Central School. Superintendent Copps stated if a condition is approved the Historic Preservation Officer be part of the committee, the school district will consider that.

Commissioner Haladay stated he would also condition the approval of the demolition permit on the successful passage of the bond. Superintendent Copps stated he personally does not see the need for the permit until the bond passes.

Commissioner Farris-Olsen noted he did not realize there was no plumbing in the east half of the building and asked if Central was renovated, plumbing would be installed. Superintendent Copps stated yes.

Commissioner Noonan stated he would be open to conditions being added to the approval of the demolition permit.

Mayor Pro Tem Ellison stated that his primary focus tonight has been on procedural matters and ensuring fairness in the discussion. He then commented that he has great appreciation for the work the school board does, that they are a separate elected body that works hard and has forwarded this recommendation to the city commission. Mayor Pro Tem Ellison stated Superintendent Copps has successfully addressed many difficult questions with positive answers and shown willingness to reach out to the community. And third, there has been a great deal of public support asking for the commission to approve the demolition permit, including the emails, letters and public testimony tonight.

Amendments

Commissioner Haladay moved the approval of the demolition of the permit be contingent on the approval of the bond

currently set for May 2, 2017, based on the bond language as of February 27, 2017. Commissioner Farris-Olsen seconded the motion.

Commissioner Haladay stated he believes this amendment will bring trust back to the process.

Mayor Pro Tem Ellison asked the city attorney if the commission needs five members to vote on the amendment. Attorney Jodoin stated no, there needs to be a majority to vote on the amendment.

Vote **All voted aye, motion carried.**

Commissioner Haladay moved that when the school district establishes a community committee to discuss the design of Central School the Historic Preservation Officer be invited to be part of the committee. Commissioner Farris-Olsen seconded the motion.

Vote **All voted aye, motion carried.**

Commissioner Haladay moved that the Helena School Board shall have until March 15, ²⁰¹⁷ to provide in writing to the City Manager the board's approval and acceptance of the conditions. Commissioner Noonan seconded the motion.

Vote **All voted aye, motion carried.**

Discussion
Commissioner Haladay thanked Superintendent Copps for his participation and answering his questions. He noted there has been a lot of community discussion, and as he deems the application as inadequate and not incomplete. There is a distinguished difference between inadequate and incomplete. Commissioner Haladay stated he asked his questions tonight to assure the historic neighborhood will be preserved. He believes the school district has provided information where the commission can approve the demolition permit. However, the opponents also provided information on where the application was lacking. Commissioner Haladay commented on the infrastructure needs of the entire school district and the need to address it.

Commissioner Haladay stated there have been threats of legal action on the opponents' side and asked that a lawsuit not be filed; it will be a detriment to all.

Motion **Commissioner Noonan moved to approve the demolition permit for the Central School building located at 402 Warren Street, as amended.** Commissioner Haladay seconded the motion.

Commissioner Farris-Olsen stated he will not support the motion; he has looked at the ordinance and it is the city commission's job to protect and preserve the historic integrity of the neighborhood. The process has been backwards. He appreciates there will be an advisory committee after the fact; however, he believes that should have happened after the first permit was denied. At this point, he has no idea on what will be built and disagrees with the City Attorney and believes the commission should have been provided a design before approval. By making this decision, he believes the commission is ignoring the City's Growth Plan and Downtown Master Plan.

Vote **Motion carried 3-1 with Commissioner Farris-Olsen voted no.**

Public Communications PUBLIC COMMUNICATIONS
No public communications were given.

Meetings of Interest MEETINGS OF INTEREST
The next Administrative Meeting is March 8, 2017 and the next Commission Meeting is March 13, 2017. The City/County Commission Joint Work Session is scheduled for March 2, 2017.

Adjournment There being no further business to come before the Commission, the meeting was adjourned at 11:40 p.m.

/S/ JAMES E. SMITH
Mayor

ATTEST:

/S/ DEBBIE HAVENS
Clerk of the Commission